

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

FILED
UNITED STATES DISTRICT COURT
LAS CRUCES, NEW MEXICO

SEP 20 2017

MATTHEW J. DYKMAN
CLERK

STANFORD KELLY WALSH,

Petitioner,

v.

Civ. No. 16-1278 RB/KK

BARBARA SEIDL SCHREIER, WARDEN,
AND HECTOR H. BALDERAS,
ATTORNEY GENERAL FOR THE
STATE OF NEW MEXICO,

Respondents.

**ORDER ADOPTING MAGISTRATE JUDGE'S
PROPOSED FINDINGS AND RECOMMENDED DISPOSITION**

THIS MATTER comes before the Court on United States Magistrate Judge Kirtan Khalsa's Proposed Findings and Recommended Disposition (Doc. 17), filed August 30, 2017. In the Proposed Findings and Recommended Disposition, Magistrate Judge Khalsa recommended that the Court dismiss Mr. Stanford Walsh's 28 U.S.C. § 2254 petition with prejudice because it was untimely filed and the doctrine of equitable tolling does not apply.


The parties have filed no objections to the Magistrate Judge's Proposed Findings and Recommended Disposition. Instead, on September 13, 2017, Mr. Walsh filed a pleading stating that he "would like to amend [his] Writ of Habeas Corpus." (Doc. 18 at 1.) Mr. Walsh's pleading is difficult to follow, but it appears that in addition to continuing to press his request that his sentence be vacated, he also seeks to recover damages against a number of New Mexico State Court Judges, the New Mexico Attorney General, numerous defense attorneys and named and unnamed investigating officers seeking "\$1,800.00 a day for every day [he] was incarcerated." (Doc. 18 at 3, 6.) Habeas corpus does not provide an available or appropriate

avenue for obtaining damages. *Preiser v. Rodriguez*, 411 U.S. 475, 494 (1973). Accordingly, Mr. Walsh's motion to amend his Habeas Petition to assert damages claims is **DENIED**.

Mr. Walsh's September 13, 2017, pleading, liberally construed, does not raise any objections to the Magistrate Judge's Proposed Findings and Recommended Disposition. Failure to timely object to a magistrate judge's proposed findings and recommended disposition waives appellate review of both factual and legal issues. *United States v. One Parcel of Real Property*, 73 F.3d 1057, 1059 (10th Cir. 1996).

IT IS THEREFORE ORDERED that Mr. Walsh's Motion to Amend his 2254 Petition is **DENIED** and the Magistrate Judge's Proposed Findings and Recommended Disposition (Doc. 17) is **ADOPTED**. Mr. Walsh's habeas petition was filed well outside the limitations period and is **DISMISSED WITH PREJUDICE**.

IT IS SO ORDERED.



HONORABLE ROBERT C. BRACK
UNITED STATES DISTRICT JUDGE